

particles and a thermoplastic polymer then is formed and extruded to form fibers. The extruded fibers may be collected on a moving foraminous support to form a nonwoven web and, if desired, may be exposed to an electric field. The fiber of the present invention, especially when in the form of a nonwoven web, is especially suited as a filtration medium. For example, the nonwoven web may be adapted to remove particulate matter from a gaseous stream.

Response to Rejections under 35 U.S.C. § 103

By way of the Office Action mailed October 12, 2001, the Examiner rejected Claims 50 and 55-66 under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 6,001,299 to Kawabe et al in view of Japanese Patent Abstract JP 63288216A of Oshida for reasons of record. The Examiner contends Kawabe teaches an electret article which in its final shape is a face mask and comprises a fibrous porous article such as a nonwoven fabric, wherein the nonwoven fabric can be meltblown or spunbonded thermoplastic material with ferroelectric materials, such as barium titanate, incorporated therein. The Examiner contends that while Kawabe is silent as to the amount of barium titanate incorporated therein, Oshida teaches thermoplastic fibers having ferroelectric material incorporated therein in the amount set forth by the Applicants. The Examiner further concludes that it would have been obvious to one skilled in the art to include the ferroelectric material of Kawabe in an amount as known in the art with the reasonable expectation of obtaining the efficacious properties associated therewith. The Examiner also suggests the fiber diameters of the present invention are inherent based on the disclosure of Kawabe, and as such, Claims 50 and 55-66 of the present invention would have been obvious to one skilled in the art.

The Applicants respectfully disagree with the Examiner's statements for a number of reasons. First, the Applicants believe that the Examiner's Office Action suggests a misunderstanding of the present invention and the references cited against it. For instance, Oshida discloses an antistat material designed to be used at low humidity (see SciFinder Abstract submitted with Supplemental IDS). In addition to being an antistat, which is contrary to the intent of the present invention, Oshida is also intended for use at low humidity. While one skilled in the art will recognize that it is possible to electret treat polyethylene, the polyethylene will not retain its charge because of the humidity. Thus, Oshida is further distinguishable from the present invention in that the present invention does not have low humidity limitations or concerns. Applicants

previously submitted documentation to support this argument (see Exhibit A to Applicants' August 27, 2001 Response).

In short, the Oshida not only teaches away from the present invention, Oshida also teaches away from the combination the Examiner proposes. That is, one skilled in the art would not look to combine Oshida and Kawabe as one teaches a material which is designed to be an antistat (i.e. a material which is specifically designed not to retain residual electrostatic charges), while the other discloses a material intended to hold onto a charge. As before, Applicants believe the teachings of these two references are diametrically opposed and that there is a fundamental misunderstanding of the technology, if it is believed that they can be properly combined. As in the previous Response, Applicants respectfully request the Examiner to suggest the motivation or suggestion of combination, should the Examiner disagree.

In addition to the above discussion, the Applicants incorporate by reference and respectfully submit that each of the previous arguments set forth in the Applicants' earlier filed Responses and/or Amendments, which the Examiner indicates as having been considered but being unpersuasive, are still valid and proper. Applicants respectfully request the Examiner to reconsider the Applicants' arguments in the previous Response directed to the Kawabe's unconventional and improper definition of "electrets" and the numerous inaccuracies (many of which contradict fundamentals of science) which are also present in Kawabe, should the Examiner not find the arguments above persuasive.

In sum it is the Applicants' contention that the Examiner's rejection of the Claims 50 and 55-66 under 35 U.S.C. §103 over Kawabe in view of Oshida is improper and should be withdrawn.

Lastly, the Examiner has objected to Claims 9 and 12-16 as being unpatentable over Kawabe in view of Oshida, as applied to claims 50 and 55-66, and further in view of PCT Publication No. WO 96/13319 of Pike (hereinafter "Pike"). The Examiner suggests that in addition to the elements discussed above Kawabe and Oshida also teach the multicomponent fibers required by Claim 9. The Examiner further contends that Pike teaches a nonwoven filter media comprising multicomponent fibers wherein the filter media is electrostatically treated to form electret filter media. The conclusion drawn by the Examiner is that the combined teachings of the three references would have rendered the face mask of Claims 9 and 12-16 obvious to one skilled in the art.

The Applicants respectfully submit that the claims to which the Examiner refers in her objection are dependant on claims which are allowable in their current form and once the claims upon which Claims 9 and 12-16 depend are allowed, the remaining claims which depend thereon are also in condition for allowance. Accordingly, in light of the arguments set forth above, the Applicants do not believe any action is required with respect to Claims 9 and 12-16 at this time.

Applicants have carefully reviewed the art cited against the present application. None of the cited references, either alone or in combination, disclose a composite construction which has the same or similar distinctive combination of features as set forth and claimed by the present application and it is this combination of elements which is clearly and patentably distinguishable over the cited art. All claims are believed to be patentably distinguishable over the cited references and in allowable condition. Applicants respectfully request that the rejections of the claims under 35 USC §103 be reconsidered and withdrawn in light of the preceding remarks.

As above, Applicants note that an interview with the Examiner had been scheduled to occur prior to filing of this response, however, due to unforeseen circumstances the interview had to be postponed. In addition to the above discussion, the Applicants were prepared to discuss at the interview clarifying the amendments previously made so as to further distinguish the present invention. The clarification was to have been directed to the destructuring of the particles as described in the specification of the present invention. Again, this Response is being filed with the expectation that the Examiner will allow the Applicants to conduct a post-response interview with the Examiner, should any issues remain which would prevent the present application from issuing. This expectation arises based on the Examiner's indication that the previously scheduled interview could be rescheduled. Applicants' attorney suggests that any issues that remain might best be resolved in a telephone interview and/or by Examiner's amendment. Applicant's attorney thanks the Examiner for her willingness to reschedule the interview, if needed.

For the foregoing reasons, the application and claims are believed to be in condition for allowance and such action is respectfully requested. However, should any questions arise with regard to this matter the Examiner is encouraged to contact the undersigned at (770)-587-7183. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,

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CERTIFICATE OF MAILING

I, William W. Letson, hereby certify that on February 12, 2002 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

By: 

William W. Letson